

~~UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS~~

MICHAEL KEVIN DUPONT, Petitioner

FILED  
U.S. DISTRICT COURT  
CLERK'S OFFICE

FILED  
U.S. DISTRICT COURT  
CLERK'S OFFICE

v.

DAVID NOLAN, Respondent

\* \* \* \* \* NO. 04-11431-GAO-2

U.S. DISTRICT COURT  
CLERK'S OFFICE

PETITIONER'S VERIFIED DEMAND FOR DENIAL  
OF RESPONDENT'S MOTION TO DISMISS, AND FOR  
EXPOSURE OF AAG SUSAN REARDON'S MISCONDUCT,  
OR FOR JUDGE O'TOOLE TO DISQUALIFY HIMSELF

HAVING FINALLY OBTAINED OR-P-1792 RECORD  
FROM SEIZED & STORED LEGAL PROPERTY TO bUST  
LYING ASS ATTY GENERAL SUSAN REARDON FOR HER  
FRAUD ON THIS COURT, NOW COMES THE PETITIONER  
AND DEMANDS THIS COURT DENY RESPONDENT'S  
FALSE MOTION TO DISMISS AND EXPOSE AAG  
REARDON'S MISCONDUCT IN THAT DECISION  
OR IF HE DOESN'T HAVE THE BALLS TO PUBLICLY  
EXPOSE REARDON TARGETING HIM AS AN EASY  
MARK TO DEFRAUD, MOVES FOR HON. JUDGE  
OTTOOLE TO DISQUALIFY HIMSELF TO ALLOW A  
FEDERAL JUDGE WITH COURAGE TO DO THAT.

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ALL STATEMENTS MADE HEREIN ARE MADE UNDER  
PAIN AND PENALTY OF PERJURY, plus petitioner  
avers that on Friday 9/5/04 he used Instatown  
MAIL TO SEND OR-P-1792 BRIEFS AND APPENDIX TO  
LAW LIBRARY FOR PHOTOCOPYING SO HE CAN MAIL  
THEM TO THIS COURT BY END OF NEXT WEEK, id.

1) STATE JUDGE DONAHUE'S RULINGS THAT HABEAS CORPUS WAS CORRECT CANNOT BE OVERRULED BY ANY FEDERAL JUDGE.

ETHICALLY BANKRUPT ASS ATTY GENERAL SUSAN REARDON REFUSED TO FILE SUPERIOR COURT JUDGE TIMMY DONAHUE'S "PENDING OF FACT, RULINGS OF LAW AND ORDER OF JUDGMENT ON PETITIONER'S PETITION FOR A WRIT OF HABEAS CORPUS [01-p-1092 STATE Appendix I~~o~~9-15] because Timmy ruled:

"whoever is imprisoned or restrained of his liberty may, AS OF RIGHT and of course, prosecute a writ of habeas corpus, according to this chapter, to obtain release from such imprisonment or restraint, if it proves to be unlawful... MGL c 218, §1.

SINCE DUPONT ALLEGES THAT HIS SENTENCE HAS EXPIRED AND HE IS BEING UNLAWFULLY HELD BY THE DOC, HE HAS BROUGHT THE CORRECT AND ACCURATE PROCEDURAL MOTION TO PROSECUTE HIS CLAIM"

[01-p-1092 Appendix I~~o~~13 To be filed AS SOON AS copied next week]

2) RESPONDENT'S ATTORNEY'S AND JUDGE DONAHUE'S AGREEMENT THAT MCL C. 248, §1 HABEAS CORPUS WAS THE PROPER MEANS TO EXHAUST, NOW REQUIRES DENIAL OF ANY MOTION TO DISMISS.

with respect to shade's previously winning release for his private practice client [01-P-1192 Appendix IX: 50] respondent's attorney DAVID SHADE'S RATIONAL FOR WHY "MR. Lynch brought the habeas corpus petition" [IV: 92 et seq.] followed Judge DONAHUE's colloquys which included:

"THE COURT: ... But let's start,  
first thing, it's a petition for  
habeas corpus, right.  
THE DEFENDANT: Yes, your Honor.

THE COURT: IT'S the  
correct vehicle...

[01-P-1192 STATE Appendix IV: 22,  
excerpt of 4/3/01 transcript page 5]

"THE COURT: Well, let's just move along for a moment now. Today, as I understand it, what we had scheduled was a hearing on Mr. DuPont's petition for a writ of habeas corpus.

MR. SLADE: That's correct, your Honor.

THE COURT: And the only issue before me would be whether that petition should be dismissed or whether it should be allowed.

MR. SLADE: That's correct.

MR. DUPONT: Yes, it is, your Honor." [01-p-1792 STATE APPENDIX IV:34, EXCERPT OF 5/2/01 TRANSCRIPT PAGE 27]

"THE COURT: Look, what I am doing, and all I AM GOING TO do in this case is TREAT THIS AS A PETITION FOR HABEAS CORPUS, and

I AM going to decide, however, the facts ARE presented to me, whether the petition should be allowed or dismissed, that's it."

[01-p-1792 STATE APPENDIX IV:55, EXCERPT OF 5/2/01 TRANSCRIPT PAGE 28]

"MR DUPONT: Your Honor, there is  
NO APPEAL from a WARD of habeas corpus.  
the STATUTE prohibits AN APPEAL. They  
MAY WANT TO TAKE ONE, but  
the CASE LAW -

MR SLADE: IF IT'S ALLOWED

MR DUPONT: There's no Appeal.

MR SLADE: IF IT'S ALLOWED,  
IT'S A PETITION FOR HABE. IF THERE'S  
A DECLARATORY JUDGMENT --

THE COURT: How do these cases  
end up in Federal Court?

MR SLADE: THAT'S A DIFFERENT MATTER.

MR DUPONT: IF I lose -

THE COURT: IT'S AN APPEAL OF A  
STATE COURT DECISION.

MR DUPONT: IF I lost.

MR SLADE: ONE OF THE  
THINGS THAT HAPPENS --

THE COURT: YES, MR SLADE.

[IV-22] continued on next page →

MR. SLADE: ONE OF THE THINGS THAT HAPPENS, SOMETIMES IN A QUESTION OF A HABEAS, WHERE THE PETITION IS ALLOWED THERE'S AN APPEAL OF IT, IS THAT THE DETERMINATION BY THE APPELLATE COURT AS TO WHETHER IT WAS PROPERLY A HABEAS --

THE COURT. IT'S ONLY eleven O'clock, we had a nice chat and the only thing I AM going to decide is whether or not the petition for habeas corpus should be dismissed OR SHOULD IT BE ALLOWED.

[01-P-1992 STATE APPENDIX IV 02-23, EXCEPT OF 5/2/01 TRANSCRIPT PAGES 45-46]

③ FEDERAL LAW DEMANDS DENIAL OF THE UNETHICAL & FRAUDULENT MOTION TO DISMISS.

The "right to exhaust by STATE habeas corpus obviously controls this case, WILWORING V SWENSON, 404 US 249, 250 (1971), CASTILLE V PEOPLES, 489 US 346, 351 (1989) AND this court CANNOT REQUIRE MASS. CRIM. P. Rule 30 RE-EXHAUSTION, CLINKSCALE V CARTER, 375 F3d 430, 488-439n.5 (6th Cir 2004).  
September 3, 2004  
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